

रजिस्टर्ड नं० पी० ४६१.



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, बृहस्पतिवार १८ अक्टूबर, १९७३/२६ आश्विन, १८९५

GOVERNMENT OF HIMACHAL PRADESH

NOTIFICATIONS

Simla-4, the 15th October, 1973

No. 10-20/73-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business, the Himachal Pradesh Panchayati Raj

1566 असाधारण राजपत्र, हिमाचल प्रदेश, 18 अक्टूबर 1973/26 आश्विन, 1895

(Amendment) Bill, 1973 (Bill No. 20 of 1973) which has been introduced in the Himachal Pradesh Vidhan Sabha today the 15th October, 1973 is hereby published in the Government Gazette.

Bill No. 20 of 1973.

THE HIMACHAL PRADESH PANCHAYATI RAJ (AMENDMENT)

BILL, 1973

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

further to amend the Himachal Pradesh Panchayati Raj Act, 1968 (Act No. 19 of 1970).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Panchayati Raj (Amendment) Act, 1973.

(2) It shall come into force at once.

2. In proviso to section 12 of the Himachal Pradesh Panchayati Raj Act, 1968 (hereinafter called the principal Act), the words “but no co-option shall be done by such Gram Panchayat unless all its members are duly elected” shall be deleted.

3. For sub-section (2) of section 74 of the principal Act, the following sub-section (2) shall be substituted, namely:—

“(2) After the co-option under sub-section (1), the Chairman shall be elected by majority vote amongst the primary and co-opted members of the Panchayat Samiti in the prescribed manner. Thereafter the Vice-Chairman shall be elected by majority vote in the same manner:

Provided that if a Pradhan of a Gram Panchayat is elected as Chairman of the Panchayat Samiti, he shall cease to be the Pradhan of the Gram Panchayat from the date of his election as Chairman of the Panchayat Samiti is notified.”

4. For sub-sections (4) and (5) of section 195 of the principal Act, the following shall be substituted as sub-sections (4) and (5), namely:—

“(4) There shall be a special meeting of the Gram Panchayat for electing Nyaya Panches and such a meeting shall be presided over by the prescribed authority. The quorum for holding such meeting shall be 5 Panches of the Gram Panchayat.

(5) The Gram Panchayat may elect any member of Gram Sabha as a Nyaya Panch provided such a member is not disqualified for being chosen as a Panch under sub-section (5) of section 9 of the Act.”

5. In Schedule II appended to the principal Act, the items 47, 48 and 49 shall be deleted.

6. (1) The Himachal Pradesh Panchayati Raj (Amendment) Ordinance, 1973 (Ordinance No. 3 of 1973) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

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STATEMENT OF OBJECTS AND REASONS

Under section 12 of the Himachal Pradesh Panchayati Raj Act, 1968, it is laid down that a Gram Panchayat can function if its two-third members stand duly elected but no co-option can be done by such Gram Panchayat unless all its members are duly elected. This provision is creating difficulties in the co-option of members in a Gram Panchayat. For any reason if all members are not elected, the co-option cannot take place in a Panchayat. It is, therefore, contemplated that section 12 may be amended suitably so that the co-option could be done when the Gram Panchayat starts functioning.

Under section 74(2) of the said Act, the Chairman and Vice-Chairman of a Panchayat Samiti are to be elected but the categories of members out of which they are to be elected have not been mentioned. The intention is to elect the Chairman and Vice-Chairman out of the primary and co-opted members. This has to be provided specifically in order to avoid any controversy and to make the provision more explicit and to make election procedure more simple, the sub-section requires amendment as suggested in the Bill.

Under section 195(4) of the said Act, it is laid down that the Pradhan of the Gram Panchayat shall preside over the meeting of the Gram Panchayat in which Nyaya Panches are to be elected. The Pradhan being the voter himself, it will not be proper to hold elections under his presidency, so it is contemplated to modify this provision and also to provide for the quorum.

Similarly under sub-section (5) of section 195 it is provided that any member of Gram Sabha can become Nyaya Panch, whereas special qualifications have been kept for Panch of a Gram Panchayat and the intention was to keep the same qualifications for a Nyaya Panch also.

Under section 203(1) the offences under Schedule II are triable by the Nyaya Panchayat and the offences at serial No. 47, 48 and 49 of the said schedule pertaining to illicit felling of trees in forests are also triable by Nyaya Panchayats. In these cases it has been observed that the Nyaya Panchayat can fine only up to Rs. 100 whereas the damage done runs into thousands, and the punishment is not proving deterrent. It is, therefore, proposed that these cases may be tried by regular courts and adequate punishment be awarded to culprits in order to check such offences.

As these matters were of great importance and required immediate action and since the Assembly was not in session, so the amendments were brought about by means of an Ordinance.

The Bill aims at replacing the aforesaid Ordinance.

SIMLA :
The, October, 1973.

HARDYAL,
Minister-in-charge.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM ON DELEGATED LEGISLATION

Clause 3 of the Bill empowers the State Government to prescribe the manner for the election of the Chairman and Vice-Chairman of a Panchayat Samiti. This delegation is normal in character.

Simla-4, the 15th October, 1973

★ **No. 10-19/73-VS.**—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business, the Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) (Amendment) Bill, 1973 (Bill No. 21 of 1973) having been introduced on 15th October, 1973 is hereby published in the Government Gazette.

**THE HIMACHAL PRADESH (TRANSFERRED TERRITORY)
TENANTS (PROTECTION OF RIGHTS) (AMENDMENT)
BILL, 1973**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

further to amend the Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) Act, 1971 (Act No. 15 of 1971).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) (Amendment) Act, 1973.

(2) It shall come into force at once.

2. In section 3 of the Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) Act, 1971, for the words, “one year and six months” wherever they occur, the words, “two years and three months” shall be substituted and shall be deemed always to have been substituted.

3. The Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) (Amendment) Ordinance, 1973 and the Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) (Amendment) Ordinance, 1973 are hereby repealed:

Provided that anything done or any action taken or any proceedings commenced or continued under the said Ordinances shall be deemed to have been done, taken, commenced or continued under the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Pending a comprehensive and unified land reforms legislation, a blanket ban was imposed on ejection of tenants in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 for a period of one year in the first instance by the Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) Act, 1971 (15 of 1971) which was further extended for a period of six months by an amending Act No. 2 of 1973 and thereafter for a further period of nine months by two Ordinances Nos. 1 and 2 of 1973. These Ordinances are required to be replaced by an amendment Act. Hence this Bill.

DES RAJ MAHAJAN,
Minister-in-charge.

SIMLA:
The 1973.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM ON DELEGATED LEGISLATION

Nil

Simla-4, the 15th October, 1973

No. 10-25/73-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business, the Himachal Pradesh Departmental Enquiries (Powers) Bill, 1973 (Bill No. 23 of 1973) having been introduced on 15th October, 1973 is hereby published in the Government Gazette.

THE HIMACHAL PRADESH DEPARTMENTAL ENQUIRIES

(POWERS) BILL, 1973

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A
BILL

to provide for the enforcement of attendance of witnesses and production of documents in departmental inquiries and for matters connected therewith or incidental thereto.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-fourth Year of the Republic of India as follows:—

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1. (1) This Act may be called the Himachal Pradesh Departmental Enquiries (Powers) Act, 1973.
(2) It shall extend to the whole of Himachal Pradesh.
(3) It shall come into force at once.
 2. For the purposes of this Act, "departmental inquiry" means an inquiry held under and in accordance with—
 - (i) any law or any rule made thereunder, or
 - (ii) any rule made under the proviso to Article 309, or continued under Article 313, of the Constitution of India.
 3. For the purposes of a departmental inquiry in Himachal Pradesh, the Officer conducting such an enquiry shall be competent to exercise the same powers for the summoning of witnesses and for compelling the production of documents as are exercisable by a Commissioner appointed for an enquiry under the Public Servants (Inquiries) Act, 1850 and all persons disobeying any process issued by such officer in this behalf shall be liable to the same penalties as if the same had issued from a Court.
 4. The Punjab Departmental Enquiries (Powers) Act, 1955, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, is hereby repealed:

Provided that anything done or any action taken under the said Act shall be deemed to have been done or taken under this Act.

STATEMENT OF OBJECTS AND REASONS

One of the important causes of delay in the conduct of departmental enquiries against Government servants is the difficulty in securing the attendance of witnesses. At present the enquiring officer has no authority to compel the attendance of any witness and it frequently happens that witnesses are unwilling to appear in departmental proceedings. This Bill seeks to empower the enquiring officer or authority to compel the attendance of witnesses and the production of documents in departmental proceedings on the same lines as in section 8 of the Public Servants (Inquiries) Act, 1850.

Y. S. PARMAR,
Chief Minister.

SIMLA :
The October, 1973.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM REGARDING DELEGATED LEGISLATION

Nil

Simla-4, the 15th October, 1973

★ No. 10-27/73-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business, the Himachal Pradesh Ceiling on Land Holdings (Amendment) Bill, 1973 (Bill No. 25 of 1973) having been introduced on 15th October, 1973 is hereby published in the Government Gazette.

THE HIMACHAL PRADESH CEILING ON LAND HOLDINGS (AMENDMENT) BILL, 1973

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A BILL

*to amend the Himachal Pradesh Ceiling on Land Holdings Act, 1972
(Act No. 19 of 1973).*

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-fourth Year of the Republic of India as follows:—

Short title
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mencement.

1. (1) This Act may be called the Himachal Pradesh Ceiling on Land Holdings (Amendment) Act, 1973.

(2) It shall be deemed to have come into force from the date of commencement of the Himachal Pradesh Ceiling on Land Holdings Act, 1972.

Amend-
ment of
section 3.

2. In section 3 of the Himachal Pradesh Ceiling on Land Holdings Act, 1972 (hereinafter called the principal Act) the following amendments shall be carried out, namely:—

(a) in clause (k) the words “but shall not include land under banana or guava gardens or vine-yards” shall be inserted after the words “agricultural purpose” and before the sign “;”;

(b) clause (l) shall be omitted;

(c) in clause (n) after the word “landowner” the sign “,” shall be inserted and thereafter for the words “and tenant” the words “tenant and mortgagee with possession” shall be substituted;

(d) in clause (q) the comma and words “, and an adult daughter” shall be omitted;

(e) in sub-clause (i) of clause (t) the words “recorded as such in the revenue record” shall be omitted; and

(f) in sub-clause (ii) of clause (t) the word “or” appearing at the end of para (b) and para (c) shall be omitted.

Amend-
ment of
section 4.

3. In section 4 of the principal Act, the following amendments shall be carried out, namely:—

(a) in sub-section (4) for the words “or daughter of a landowner” the words “of a person” shall be substituted;

(b) for sub-section (5) the following sub-section (5) shall be substituted, namely:—

“(5) If a person holds land of two or more categories described in clauses (a), (b) and (c) of sub-section (1) and sub-section (2) of this section then the permissible area shall be determined on the following basis:—

- (i) in the areas mentioned in sub-section (2) of this section one acre of land mentioned in clause (a) of sub-section (1) shall count as one and a half acres of land mentioned in clause (b) of sub-section (1) and seven acres of land mentioned in clause (c) of sub-section (1);
- (ii) in the areas other than the areas mentioned in sub-section (2) of this section, one acre of land mentioned in clause (a) of sub-section (1) shall count as one and a half acres of land mentioned in clause (b) of sub-section (1), and three acres of land mentioned in clause (c) of sub-section (1):

Provided that on the basis of ratio prescribed in clauses (i) and (ii), the permissible area shall be converted into the category of land mentioned in sub-section (2) and in clause (c) of sub-section (1) as the case may be, and the total area so converted shall not exceed 70 acres in case of clause (i) and 30 acres in case of clause (ii)."

4. For clause (c) of section 5 of the principal Act, the following clause (c) and explanation shall be substituted, namely:—

"(c) lands belonging to Land Mortgage Banks, the State and Central Co-operative Banks and any other Banks.

Explanation.—For the purpose of this clause "any other Banks" mean a banking company as defined in section 5 of the Banking Regulation Act, 1949, and includes the State Bank of India constituted under the State Bank of India Act, 1955, a subsidiary Bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 and a "corresponding new bank" as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, the Agricultural Refinance Corporation, and Agro-Industries Corporation, Agricultural Finance Corporation Ltd., a company incorporated under the Companies Act, 1956, and any other financial institution notified by the State Government in this behalf;"

5. For clause (ii) of sub-section (1) of section 14 of the principal Act, the following clause (ii) shall be substituted, namely:—

"(ii) for the land in excess of 10 acres and below 30 acres, "seventy-five times the land revenue (including rates and cesses); and"

6. After sub-section (2) of section 15 of the principal Act, the following sub-section (2-A) shall be inserted, namely:—

"(2-A) For making the allotment of the surplus land under sub-section (2), the first preference among landless persons shall be given to the members of Scheduled Castes and Scheduled Tribes".

7. In sub-section (3) of section 17, of the principal Act, for the word and figure "section 8" the word and figure "section 9" shall be substituted.

8. The Himachal Pradesh Ceiling on Land Holdings (Amendment) Ordinance, 1973 is hereby repealed:

Provided that anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

10 of 1949
23 of 1955
38 of 1959
5 of 1970
1 of 1956

4 of 1973

STATEMENT OF OBJECTS AND REASONS

The Himachal Pradesh Legislative Assembly passed the Himachal Pradesh Ceiling on Land Holdings Bill, 1972 on the 21st December, 1972. The Bill was reserved for the assent of the President of India. The President assented to the Bill subject to some amendments. Accordingly the amendments were effected in the Himachal Pradesh Ceiling on Land Holdings Act, 1972 (Act No. 19 of 1973) by Ordinance No. 4 of 1973 promulgated by the Governor of Himachal Pradesh under the instructions of the President. The Ordinance is required to be replaced. Hence this Bill.

DES RAJ MAHAJAN,
Minister-in-charge.

SIMLA:
The October, 1973.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM ON DELEGATED LEGISLATION

Nil

Simla-4, the 16th October, 1973

No. 10-22/73-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business, the Himachal Pradesh Urban Rent Control (Amendment) Bill, 1973 (Bill No. 19 of 1973) after having been introduced in the Assembly on 16th October, 1973 is hereby published in the Gazette.

S. S. KANWAR,
Secretary.

Bill No. 19 of 1973.

**THE HIMACHAL PRADESH URBAN RENT CONTROL
(AMENDMENT) BILL, 1973**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to amend the Himachal Pradesh Urban Rent Control Act, 1971 (Act No. 23 of 1971).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Urban Rent Control (Amendment) Act, 1973.

(2) It shall come into force at once.

of 1971

2. For section 4 of the Himachal Pradesh Urban Rent Control Act, 1971 (hereinafter called the principal Act) the following section shall be substituted, namely:—

“4. (1) Notwithstanding anything contained in any other law, it shall be lawful after the death of a tenant for his widow and if the tenant is the wife, the widower, to retain possession of the building or rented land as tenant of a landlord till she dies or remarries, and in the case of the widower till he dies, on the same terms and conditions on which the tenancy was held by her husband and in the case of the widower, the wife and all the provisions of this Act shall apply to such a case.

(2) After the death or remarriage of the widow or the death of the widower or whereafter the death of a tenant there is no widow or widower, then in such a case notwithstanding anything contained in any other law, it shall be lawful for minor sons or daughters of such a tenant to retain possession of any building or rented land of a landlord till the age of majority of the sons or till the daughters get married, on the same terms and conditions on which the tenancy was held by their father or mother.”

3. In first proviso to sub-section (2) of section 28 of the principal Act the word and comma “widowers,” shall be inserted in between the words “widows,” and “minor sons”.

STATEMENT OF OBJECTS AND REASONS

In the Himachal Pradesh Urban Rent Control Act, 1971, sufficient safeguards have been provided for against the indiscriminate evictions of the widows, minor sons and un-married daughters of the deceased tenants. But no such protection has been provided for safeguarding the interests of the widowers in the equal circumstances. It has been decided to extent the same protection to the widowers.

The Bill seeks to achieve the aforesaid object.

SARLA SHARMA,
Minister-in-charge.

The **SIMLA:**
October, 1973.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM REGARDING DELEGATED LEGISLATION

Nil